IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.892 of 2006
ASHOK ANANT GANPULE @ ASHOK A.GANPULE
Versus
STATE OF BIHAR & ANR

With

CR. REV. No.541 of 2007
CHANDESHWAR SINGH
Versus
STATE OF BIHAR & ANR

with

CR. REV. No.823 of 2006
DR. MEERA ANANT GHARPURE
Versus
STATE OF BIHAR & ANR

For the petitioner : : Mr. Kalikant Jha, Adv.
: Mr. Manish Jha
For the opposite party no. 2 : Mr. Rana Randhir Singh, Adv.
For the State : Mr. Gopesh Kumar, App.

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5. 3.9.2008. Heard learned counsel for the parties.

All the three revisions have been filed against the common order dated 10.7.2006 passed by Presiding Officer, Special Court, Economic Offences, Patan in Criminal Case No. 240 of 2002.

All the three petitioners are accused in a official complaint lodged by opposite party no. 2 under Section 63, 68 and 628 of the Companies Act, 1956. All the three petitioners were Managing Director/Director /Officials of M/s Bodh Gaya Ceramics Limited, joint venture of the State Government. By the impugned order, learned Special Judge has refused to dispense with the personal appearance of the petitioners under Section 205 Cr.P.C.

It is well settled that power to grant exemption from personal appearance is discretionary. However, ordinarily the court

should be generous and liberal in granting exemption except in cases of serious nature and cases of moral turpitude.

On perusal of the complaint petition it would appear that petitioners along with some others have been prosecuted for commission of technical offence under Companies Act. They have been prosecuted under four counts which are as follows;-

(i) the company failed to start production as promised in the prospectus for public issues.

(ii) The company has not declared any dividend as promised.

(iii) The company has not filed any balance-sheet on 31.3.1993 and

(iv) The company failed in its promise made in the prospectus.

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Above failures on the part of the petitioners and other accused are technical offence in nature. It is not a serious offence. Apart from it, one of the petitioners, namely Dr. Meera Anant Gharpure is an old lady residing at Mumbai, petitioner Ahsok Anant Ganpule is a resident of Gujarat and the other petitioner is an old man aged about 74 years. All are busy professional/businessmen.

It appears that learned court below has not exercised his discretion in judicious manner. Under the facts and circumstances, court should have granted permission to the petitioners to be represented through their lawyers.

Accordingly, all the three Cr. Revisions are allowed.

Impugned order is set aside. Court below is directed to exempt personal appearance of all the petitioners and direct them to be represented through their lawyer with condition to appear at later stage whenever it is required by the Court.

Kanchan **(Ghanshyam Prasad, J.)**

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